



State Water Plan Update Statewide Committee Meeting

November 17, 2021
9:00 a.m. - 12:00 p.m.

Rachel Carson State Office Building
Room 105
400 Market Street
Harrisburg, PA 17101

In-Person Option and Virtual Meeting via Microsoft Teams

Committee Members in Attendance:

Kelly Anderson	Gary Merritt
Len Bradley	Kevin Moore
Carol Collier	Kristina Peacock-Jones
Andrew Dehoff	Michael Roth
Theresa Eberly	Trish Salvia
Patty Elkis	Heather Smiles
Jennifer Fetter	Simeon Suter
Matthew Genchur	Deb Simko
Kate Harper	Steve Tambini
Richard Harrison	Tim Weston
Jeff Jumper	Matthew Wolford

Committee Members Not in Attendance:

Sean Donnelly	Daniel Gold
Brian Eckert	Shannon Rossman
Andrew Gutshall	Jessica Trimble
Heidi Moltz, Ph.D.	

Others in Attendance:

Mark Matlock – DEP	Monica Gould – Strategic Consulting Partners
Mike Hill – DEP	Bob Whitmore – Strategic Consulting Partners
James Horton – DEP	Brian Chalfant – DEP
Dave Jostenski – DEP	Abdolhossain Liaghat – DEP

Visitors:

Erin Kepple Adams	Kevin Halloran	Deb Phillips
Mark Bowen	Sheryl Kelly	Chad Pindar
Pat Bowling	George Kunkel	Anne Quinn
Tim Bruno	Mike Kyle	Mary Ellen Ramage

Joseph Buczynski
Pat Burke
Anthony Foyle
Andy Gavin

Tony Maury
Susan Myerov
Mark Nemitz
Craig Palmer

Curtis Schreffler
Justin Spangler
Mark Snyder
Warren Weaver

Welcome

Mark Matlock, DEP, welcomed everyone to the meeting and explained the meeting was being recorded and provided helpful hints on the use of the technology. Chair Tim Weston welcomed everyone attending the meeting. Attendance was recorded in the Microsoft Teams participant's log. The only attendees present at the in-person meeting room were DEP staff.

Minutes

The minutes of the September 15, 2021, meeting was approved on a Kevin Moore / Len Bradley motion.

Public Comment

Chair Weston opened the meeting for public comment. No public comment was offered.

DEP Summary of Activities

Mark Matlock provided the committee an update of what DEP is working on regarding the State Water Plan Update.

- The United States Geological Survey (USGS) Water Use Data and Research grant data sharing projects are moving forward
- Data sharing is operational and in the testing phase
- Three Critical Area Resource Plans (CARPs) are in review by DEP staff
- The Atlas from the 2009 State Water Plan is being developed into a StoryMap Atlas for the 2022 Plan
- Power BI water data system is in place and DEP is researching if the system can be expanded to show all consumptive use of water
- The seventh round of regional committee meetings finished in October and the eighth round of meetings is scheduled for January 2022.

Workgroups Draft Recommendations

1. **Stormwater Management and Flood Mitigation** – Update provided by Len Bradley. The draft recommendations of the workgroup were reviewed with the committee and given to DEP for internal review and comment.
2. **Water Supply** – Update provided by Drew Dehoff. The draft recommendations of the workgroup were reviewed with the committee and given to DEP for internal review and comment.
3. **Emerging Contaminants** – Update provided by Trisha Salvia.

The draft recommendations of the workgroup were reviewed with the Statewide Committee and given to DEP for internal review and comment.

Legislative Priorities

Mark reviewed the Legislative Priorities from the previous plan and what has occurred with the legislative priorities since the last plan was adopted. 2008 Legislative Priorities are indicated by *bold italics* with updates provided below each priority. Additional comments provided during the discussion are added at the end of each priority.

2021 Update on the Status of the 2008 Recommended Legislative Priorities of the Statewide Water Resources Committee to Implement the State Water Plan

1. Enact legislation to require proficiency-based licensing and certification of water well drillers, and to establish statewide private water well construction standards.

- No progress.
- There have been several efforts to do one or both of these things since (and before) 2008, including:
 - 2011-2012 [HB 1855](#);
 - 2013-2014 [HB 343](#);
 - 2015-2016 [HB 48](#); and
 - 2017-2018 [HB 417](#) and [HB 596](#).
 - In 2001-2002, [HB 1591](#) passed the House but died in the Senate.

Committee: A concerted effort to build support for the bills from the public and those involved must be created and include an educational component explaining that the legislation is not a tax and what is and is not involved in the process.

2. Based on pilot plan assessments, enact new or amended legislation that would encourage the development and implementation of Integrated Water Resources Plans.

- A few counties (York and Westmoreland) developed Integrated Water Resource Plans (IWRPs) that, in part, meet the purposes of watershed stormwater plans required under [Act 167 of 1978](#). For more info, see the [Pennsylvania IWRP Flowchart Tool](#).
- Some bills in the current session (e.g., [SB 832](#) and [HB 1901](#)) contain language that would prioritize projects that are part of an integrated water resources plan.
- Prior session bills along these lines include:
 - 2013-2014 [SB 287](#);
 - 2011-2012 [SB 452](#);
 - 2009-2010 [SB 524](#) and [HB 1390](#); and
 - 2007-2008 [HB 2266](#).

Committee: Who is behind these bills and what level of support is being offered? Need to build a bipartisan coalition. AWWA, AWRA, planning groups, APA, and others can help build support. It is important to connect land and water.

3. Enact new or amended legislation to link local land use decisions with water resources planning and management, and to provide adequate funding for developing information necessary for making sound decisions.

- [Act 167 of 1978](#) arguably already provides this link (at least for stormwater planning), but funding to support development/updating of Act 167 plans evaporated about a decade ago.
- Integrated Water Resources legislation is partially addressed, at least for purposes of making clear that Authorities may assess fees for stormwater management, by:
 - 2012 amendments to the Municipality Authorities Act (“MAA”) to add “[s]torm water planning, management and implementation” as specifically authorized purposes of a municipal authority. 53 Pa. Stat. and Cons. Stat. Ann. § 5607(a)(18).
 - In 2013, in recognition of the need to properly fund those activities, the MAA was again amended to provide for the assessment of fees. A fee-setting concept was included in the enacted legislation: “In the case of an authority that performs storm water planning, management and implementation, reasonable and uniform rates may be based in whole or in part on property characteristics, which may include installation and maintenance of best management practices approved and inspected by the authority.” 53 Pa. Stat. and Cons. Stat. Ann. § 5607(d)(34).
 - Since the inclusion of this fee-setting language in the MAA, the legislature has taken additional steps to specifically authorize other municipal entities to similarly set fees based on property characteristics.
 - In 2016, the Second-Class Township code was amended to add language similarly authorizing fees based in whole or in part on the characteristics of the property to be assessed. 53 Pa. Stat. Ann. § 67705. That law *requires* that the township consider and provide exemptions or credits for the installation of best management practices and that any fees collected are used only for the purposes of stormwater management activities.
 - Legislation authorizing similar fees by other municipal entities was introduced in 2018 (House Bills 913-916 (incorporated towns, boroughs), first class townships, and third-class cities, respectively), and again in 2019 (House Bill 473 (first class townships) and House Bill 474 (boroughs, incorporated towns, and third-class cities)).
- Act 167 is limited to a large extent to stormwater and the reference to “Integrated Water Resources” management concept was broader (per [HB 2266](#) from 2007-2008).
- [Act 67 of 2000](#) and [Act 68 of 2000](#) requirements to consider local land use and compliance. DEP has technical guidance documents regarding consideration of local comprehensive plans and zoning ordinances in review of permits ([012-0200-001](#)) and grants and funding ([012-0200-0200](#)) for facilities and infrastructure.

Committee: Fee items are not particularly relevant to this initiative. If it benefits all it is a tax not a fee. Adequate funding is needed.

4. Amend the Pennsylvania Flood Control Act to provide DEP with general authority to indemnify federal agencies for water resources projects.

- No update.

Committee: Follow up if this is still something DEP is interested in.

5. Amend the Pennsylvania Flood Control Act and the Stream Clearance and Rectification Act to provide authority to consider and implement all potential flood control or streambank stabilization solutions, including non-structural alternatives and preventive approaches to reduce the risk of flooding, and allow all types of flood control solutions to be funded through the capital budget process.

- Big push in 2000s with FEMA and flooding.
- Chapter 102 was amended in 2010 ([40 Pa.B. 4861](#)), which addressed some of these concerns through riparian buffer requirements ([25 Pa. Code § 102.14](#)).

Committee: No comments.

6. Evaluate Section 301(a) of the Flood Plain Management Act to consider expanding the list of floodplain obstructions that have been determined to present a special hazard to public health and safety, may cause significant pollution, or may endanger life and property.

- [Chapter 106](#) on floodplain management includes any highway obstruction or obstruction constructed, owned or maintained by the Commonwealth or a political subdivision of the Commonwealth; and any obstruction constructed, owned or maintained by a public utility.

Committee: Items in 301(a) were incorporated into Chapter 106. There are special hazards besides those listed in 301(a) that are of concern. There is still work to be done.

7. Through appropriate legislation, regulation, and administrative changes, integrate and leverage existing state and federal stormwater management regulations, policies and requirements (e.g., Storm Water Management Act, Sewage Facilities Act, Municipalities Planning Code, 25 Pa. Code Chapters 102 and 105, NPDES, MS4, TMDLs) to provide an effective, straightforward, seamless stormwater management program that is blind to regulatory origin.

- DEP has made a lot of progress with Municipal Separate Storm Sewer System (MS4) and Act 167 - they are synced with post construction stormwater management plans.
 - Realizes part of the objective to MS4, National Pollutant Discharge Elimination System (NPDES), Total Maximum Daily Load (TMDL).
 - DEP has accomplished this in the stormwater context in regard to TMDL.
- This is related in part to the broad Integrated Water Resource Planning concepts supported and pursued (reflected in part in HB 2266 draft legislation) and referenced above. It is also specific to the stormwater management context. In the early 2000s there were three stormwater management regulatory programs that

were managed by different staff within DEP, using different technical standards: the nascent post construction stormwater requirements added to the federal Clean Water Act NPDES Stormwater Construction permit; the federal NPDES municipal separate storm sewer system permit program; and the Pennsylvania Storm Water Management Act (Act 167) county-based stormwater planning program. In the late 2000s, DEP coordinated the administration of these programs, as is reflected in the preamble to the 2010 Chapter 102 rulemaking ([40 Pa.B. 4861](#)):

“The revisions will also provide benefits through the restructuring and clarification of planning and permit application requirements, as well as the codification of the existing PCSM requirements. This final-form rulemaking reflects a continuing commitment to integrate regulatory obligations for stormwater management including requirements under the Storm Water Management Act (Act 167) (32 P. S. §§ 680.1—680.17), the NPDES MS4 program and permitting of earth disturbance activities [Note – this is referring to the rulemaking itself, Chapter 102 and its provisions related to NPDES and O&G construction stormwater discharges]. Local governments with Act 167 or NPDES MS4 regulatory obligations may rely on the regulatory structure provided by this final-form rulemaking. This reliance on existing State stormwater programs represents a significant cost savings to local governments.” (40 Pa.B. 4877)

Committee: There is still work to be done.

8. Clearly authorize by legislation, regulation, or policy the creation and operation of local Authorities, Utilities or Management Districts, and/or other sustainable funding sources that would enable entities to collect fees and generate revenues dedicated to planning, constructing, monitoring, maintaining, improving, expanding, operating, inspecting and repairing public and private stormwater management infrastructure.

- [Act 62 of 2016](#) amended The Second Class Township Code ([Act 69 of 1933](#)) to authorize the assessment of stormwater fees by second-class townships. In particular, Act 62 of 2016 added § 2705 to The Second-Class Township Code, which provides some specificity as to the assessment of such fees.

Committee: The Stormwater workgroup is developing updated language.

9. As further information concerning Pennsylvania’s water use trends and challenges are developed over the next five years, concerted efforts should be undertaken to evaluate and evolve Pennsylvania’s water rights and water withdrawal arrangements to a more consistent, secure and holistic approach that:

- **Offers water users well-defined, stable and predictable water rights.**
- **Promotes siting and development of uses requiring withdrawals in ways that assure adequate and sustainable supplies both in normal and drought periods, without causing unacceptable impacts on instream uses and environmental resources.**

- ***Is administratively efficient and avoids unnecessary duplication between agencies and programs.***

Focuses on considering and evaluating the options and issues described on (pages 48-49) of the Water Plan Principles, evaluating programs that are used in other states, and utilizing a process which includes DEP, the Statewide Committee, and other major stakeholders. Based on that process, a report on the relative merits of the identified options should be developed, and appropriate recommendations should be made to the General Assembly as to whether and how Pennsylvania's water rights system might be improved and made more efficient, effective, predicable and secure.

- No update.

Committee: Update or replace with Water Supply workgroup wording – take up this effort over the next few years.

Committee overall comment: Pull together all items from recommendations that mention what the Legislation shall do.

Regional Committee Updates

Mark provided an overview of the regional committees' meetings held in October. The draft StoryMap was reviewed with each of the committees. The StoryMap includes the following components:

- An introduction to each region
- The two priorities for each region
- The uniqueness of each region
- Stormwater and flood management
- Climate change
- Notable projects

Comments in the chat

- Current Stormwater fee legislation: HB 1287, HB 1288 - boroughs, 1st class townships, 3rd class cities
<https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?year=2021&slnd=0&body=H&type=B&bn=1287> and
<https://www.legis.state.pa.us/CFDOCS/billInfo/billInfo.cfm?year=2021&slnd=0&body=H&type=B&bn=1288>
- Bill Information - <http://www.legis.state.pa.us>
- Regarding Contaminants of Emerging Concern (CECs) & coordinating with other agencies, some of the river basin-based source water protection (SWP) partnerships (of which DEP participates in such as the Potomac Drinking Water Source Protection Partnership & Lower Susquehanna SWP Partnership) have workgroups to track research, proposed legislation, occurrence studies, etc. on CECs that may be of interest. For more info on the Potomac Partnership's CEC

Workgroup, see <https://www.potomacdwspp.org/about-us/emerging-contaminants-workgroup/>

- The PA Ground Water Association (water well drillers) is very supportive of water well construction standards. The National Ground Water Association now has standards on water well construction standards.

Next Steps

The next steps in the planning process developed by Chair Weston follow:

1. Complete a review of the remaining workgroup recommendations.
2. Prioritize and refine the list of priorities. Hope to have final agreement on the priorities in January.
3. Planning for combined public hearings on the regional priorities in March. A one-hour hearing will be scheduled for each region.
4. March Statewide Committee meeting – DEP staff plan to share the digital atlas.
5. April regional committee meetings – a vote will be completed to adopt the region's priorities.
6. Statewide Committee will vote on the regions' priorities at either the July or September meetings.
7. Goal is to have the update to the State Water Plan completed by the end of 2022.
8. Chair Weston and Mark Matlock will be organizing the legislative priorities to present to the committee in March.
9. Development of white papers with background information and recommendations on the priorities.

Future Meetings

The committee is on a bi-monthly schedule. The meeting dates for the Statewide Committee in 2022 are:

- January 19
- March 16
- May 11
- July 20
- September 21
- November 9

The meeting was adjourned at 11:44 am on a Kate Harper / Len Bradley motion.